HOUSE No. 4153

Section 144 contained in the engrossed Bill making appropriations for the fiscal year 2010 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4129), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment P of House, No. 4139). June 30, 2009.



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The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND NINE.

AN ACT RELATIVE TO DEVELOPMENT IN THE TOWNS OF MONSON AND TEMPLETON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for certain development in the towns of Monson and Templeton, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- SECTION 1. (a) As used in this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-
 - "Commissioner", the commissioner of capital asset management and maintenance.

"Developer", a person, entity or governmental body that acquires an ownership or leasehold interest in the site or any portion thereof pursuant to this section.

"Division", the division of capital asset management and maintenance.

"MDC committee", the Monson Developmental Center Reuse Committee, which shall include 3 representatives of the town of Monson, 1 of whom shall be a member of the Monson board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Monson planning board or his designee, and 1 of whom shall be chosen by the Monson board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; and 1 representative of Parents and Friend. Such members shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as exofficio members.

"MDC site," the area of state-owned land located in the town of Monson known as the Monson Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

"Plan", a reuse plan prepared by the MDC committee and TDC committee which shall be approved by the commissioner and filed in accordance with subsection (b); provided, however, that the plan may be enhanced, refined or amended from time to time as provided in this section and shall include uses that promote environmental preservation, open space and any other use found to be appropriate by the town and the committee.

"Selection committee", the proposal selection committee established to review proposals and make recommendations to the commissioner, which shall include 1 representative of the respective town chosen by the board of selectmen to be appointed annually; 1 representative of the division of capital asset management and maintenance; 1 representative from the MDC committee; and 1 representative from the TDC committee.

"TDC committee", the Templeton Developmental Center Reuse Committee, which shall include 3 representatives of the town of Templeton, 1 of whom shall be a member of the Templeton board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Templeton planning board or his designee, and 1 of whom shall be chosen by the Templeton board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; and 1 representative of the legal guardians of the clients currently housed at Templeton Developmental Center. Such members shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.

"TDC site", the area of state-owned land located in the town of Templeton known as the Templeton Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

(b) The commissioner shall undertake planning, studies and preparation of plans and specifications necessary to carry out the provisions of this section consistent with the plan. The TDC committee and MDC committee shall file the plans with the commissioner within 180 days after the effective date of this section. The commissioner shall consult with the TDC committee and the MDC committee on any

amendment to the plan and shall develop, issue and advertise requests for proposals consistent with the plan within 90 days of receipt of the plan. Upon receipt of proposals the commissioner shall convene the selection committees for the purpose of reviewing and making recommendations regarding selection to the commissioner. The respective town's governing authority shall be encouraged to submit proposals for uses consistent with the plan for some or all of the property. Should proposals from the municipalities be among those recommended to the commissioner, the commissioner shall reasonably accommodate the schedule required for town meeting votes, should said vote be required to complete or approve a proposal, prior to making any final decisions on the proposals. In regard to TDC, any re-use must be consistent with chapter 504 of the acts of 2002 which limits some uses on the TDC site. Further, any reuse shall be consistent with restrictions resulting from the TDC and MDC sites being listed on the National Historic Register.

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(c) The commissioner may, subject to sections 40E to section 40J, inclusive, of chapter 7 of the General Laws, and in accordance with this section and the plan and subject to such terms and conditions as the commissioner may, from time to time, prescribe, solicit, evaluate and select development proposals, enter into land disposition agreements, enter into agricultural leases for up to 5 years, sell, lease for terms of up to 99 years including extensions or otherwise grant, convey or transfer to a developer, any interest in the site or portions thereof and any facilities, associated improvements or appurtenances thereon, on such terms and conditions as the commissioner deems appropriate provided the end use meets the guidelines developed by the MDC committee and the TDC committee. The amount of consideration for the sale, lease or other disposition of any interest in the sites or portion thereof shall be the full and fair market value or the highest and best value of the property determined by independent appraisal. Additionally, the respective towns may to collect property taxes or payments in lieu of taxes if land is leased or sold for taxable uses. The inspector general shall review and comment on the appraisal and the review shall include an examination of the methodology used for the appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and the joint committee on state administration. No less than 2 public comment sessions shall take place. The developer shall be responsible for any costs of appraisals, surveys and other expenses relating to the transfer of the parcel or for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel. In the event the parcel of land ceases to be used at any time for the purposes contained herein as deemed by the appropriate reuse committee, the parcel of land shall revert to the care and control of the division of capital asset management and maintenance and any further disposition of the parcel of land shall be subject to said sections 40E to 40J, inclusive, of said chapter 7. The town that contains the affected property shall retain the right to contend that the current use of the property is not appropriate through action of the local board of selectmen or town meeting vote. The commissioner shall, 30 days before the execution of any agreement or amendment thereto authorized by this section, submit the agreement or amendment and a report thereon to the inspector general for review and comment. No less than 2 public comment sessions shall take place. The inspector general shall issue his review and comment within 30 days after receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on state administration at least 30 days before execution.

(d) The affected town's board of selectmen shall have the right of first refusal before any decision is made as to the reuse or sale of either the land or facilities in each town.

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- (e) Notwithstanding any general or special law to the contrary, the commissioner may, subject to appropriation, and subject to sections 40E to 40G, inclusive, 40I and 40J of chapter 7 of the General Laws retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of the General Laws, or otherwise, grant by deed, transfer, lease, eminent domain, pursuant to said chapter 79, or otherwise, or grant by deed, transfer, lease or otherwise, any rights-of-way or easements, in, over and beneath the site or portions thereof or other property in the commonwealth contiguous to the site for drainage, access, egress, utilities and other purposes, as the commissioner deems necessary and appropriate to carry out the purposes of this section. The commissioner shall seek advice from the appropriate reuse committee prior to the implementation of any action.
- (f) The department of developmental services, with the approval of the commissioner, may enter into contracts for the provision of building management services for buildings and facilities located on the site as deemed by the commissioner and the reuse committee.
- (g) Notwithstanding any general or special law to the contrary, the commissioner may employ designers who prepare studies or programs or other design services for the construction, renovation, reconstruction, alteration, improvement, demolition, expansion or repair of buildings on the MDC site and the TDC site to prepare plans and specifications and provide any other design services deemed necessary by the commissioner for such projects. The commissioner shall obtain an independent comprehensive value engineering review of the completed study and program to identify proposed functions of the facility, evaluate the construction cost estimates, calculate estimated life-cycle costs and develop recommended design changes that will produce a more cost-effective facility by modifying or eliminating features that add cost but do not add to the quality, useful life, utility or appearance of the facility. The commissioner shall obtain an independent comprehensive value engineering review of the completed schematic design documents to identify proposed functions of the facility, evaluate the construction cost estimates, calculate estimated life-cycle costs and develop recommended design changes that will produce a more cost-effective facility by modifying or eliminating features that add cost but do not add to the quality, useful life, utility or appearance of the facility before the acceptance by the commissioner. The commissioner shall document the reasons for accepting, modifying or rejecting all value engineering recommendations.

SECTION 2. This act shall take effect as of July 1, 2009.